

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 2, 2006

**D046439          Donner Management Company et al. v. Schaffer**

The request for publication of Part II of the opinion is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 3, 2006

**D047154        Petty et al. v. Hill**

The judgment of the trial court is affirmed. Aaron, J.; We Concur: Haller, Acting P.J., McIntyre, J.

**D046224        Berkes et al. v. San Diego Foreclosure Services Inc., et al.**

**D047346        Previti et al. v. Berkes et al.**

The pending appeals, Jason E. Berkes, as Trustee, etc., et al. v. San Diego Foreclosure Services, Inc., et al. D046224, and James P. Previti, as Trustee, etc v. Jason E. Berkes, et al. D047346, are consolidated for disposition.

**D046224        Berkes et al. v. San Diego Foreclosure Services Inc., et al.**

**D047346        Previti et al. v. Berkes et al.**

(Consolidated) The Judgments are affirmed. O'Rourke, J.; We Concur: McDonald, Acting P.J., McIntyre, J.

**D049326        Bonnie H. v. Superior Court of the County of San Diego/San Diego County Health and Human Services Agency**

The attorney for petitioner Bonnie H. has notified the court that a petition for writ of mandate under California Rules of Court, rule 38.1 and 1436.5 will not be filed because there are no viable issues for writ review. The case is dismissed.

**D049327        ARETHA G. v. Superior Court of the County of San Diego/San Diego County Health and Human Services Agency**

The attorney for petitioner Aretha G. has notified the court that a petition for writ of mandate under California Rules of Court, rule 38.1 and 1436.5 will not be filed because there are no viable issues for writ review. The case is dismissed.

**D049121        In re Brown on Habeas Corpus**

The petition is denied.

**D047421        Kozano v. Schlager**

The joint application and stipulation for reversal of judgment and remand for dismissal with prejudice is denied. Appellant's opening and appellant's appendix are due 30 days from the date of this opinion. Benke, Acting P.J.; We Concur: Huffman, J., Irion, J.

**D049118        Finkelstein v. Superior Court of San Diego County/Bastuba, M.D.**

The petition is denied.

**D049008        Hector v. Superior Court of Imperial County/People**

At the request of petitioner, the petition for writ of mandate is dismissed.

**D049074        Estrada v. Workers' Compensation Appeals Board and Palo Verde Irrigation District et al.**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 4, 2006

**D046004      In re Simonton on Habeas Corpus**

The petition is denied. McDonald, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

**D046695      Hodge v. Poway Unified School District**

Judgment affirmed. Hodge is to bear District's costs on appeal. Haller, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D047212      Gregg v. Revelle**

The judgment is affirmed. Revelle is awarded costs on appeal. Benke, Acting P.J.; We Concur: Huffman, J., Aaron, J.

**D048946      In re Perez on Habeas Corpus**

The petition is denied.

**D049053      Condon-Johnson & Associates et al. v. Superior Court of San Diego County/Crane et al.**

The petition is denied.

**D049503      Williams v. Superior Court of San Diego County/People**

Trial court proceedings are stayed pending further order of this court. Real party is directed to file an informal response to the petition on or before October 13, 2006.

**D049034      Sharp Memorial Hospital et al. v. Superior Court of San Diego County/Segura et al.**

The court is in receipt of petitioners' letter of October 3, 2006. Accordingly, the order to show cause issued on August 4, 2006 is discharged in light of the stipulation of the parties. The stay issued on July 21, 2006 is vacated. The petition is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 5, 2006

**D046384      People v. Johnson**

The petition for rehearing is denied.

**D048519      In re Sean F., a Juvenile**

The order is reversed. O'Rourke, J.; We Concur: Huffman, Acting, P.J., Nares, J.

**D047825      People v. Mallery**

The judgment is affirmed. O'Rourke, J.; We Concur: Nares, Acting P.J., Aaron, J.

**D049300      Bertha L. et al. v. Superior Court of San Diego County/San Diego County  
Health and Human Services Agency**

The attorney for petitioner Antonio L. has notified the court that he has decided not to file a petition for writ of mandate under California Rules of Court, rules 38.1 and 1436.5. The case is dismissed.

**D049340      Kimya B. v. Superior Court of San Diego County/San Diego County Health  
and Human Services Agency**

The attorney for petitioner Kimya B. has notified the court that a petition for writ of mandate under California Rules of Court, rules 38.1 and 1436.5 will not be filed because there are no viable issues for writ review. The case is dismissed.

**D049174      In re Moore on Habeas Corpus**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 6, 2006

**D049132      In re Cortez on Habeas Corpus**

The petition is denied.

**D048891      Juan R. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The unopposed motion to dismiss the petition as moot, filed by Real Party in Interest the San Diego Health and Human Services Agency, has been considered by Justices Haller, McDonald and Nares. The motion is granted. The order to show cause is discharged and the petition is dismissed.

**D049523      People v. Elliott**

The notice of appeal is premature because no appealable order or judgment has yet been entered. The appeal is dismissed without prejudice to refile a notice of appeal after an appealable order or judgment has been entered.

**D047397      People v. Gomez**

The judgment is affirmed. McIntyre, J.; We Concur: McDonald, Acting P.J., Aaron, J.

**D049177      County of San Diego v. Superior Court of San Diego/Howard et al.**

The petition is denied.

**D049155      Wal-Mart Stores Inc., et al. v. Workers' Compensation Appeals Board and Della Coronel**

The petition is denied.

**D049086      In re Agrio on Habeas Corpus**

The petition is denied.

**D048497      People v. William Peter New**

**D047996      People v. Ramon P. Bartoleno**

2:00 P.M. Court convenes

Associate Justice Gilbert Nares designated hearing officer and referee in this matter.

Deputy Clerk: C. Tunnell

Deputy Clerk: D. Moore, recording

CHP Officer: Art Athans

Appointed Counsel Rebecca P. Jones present with Ja' Nal Carter, CSR # 12813.

Kevin Lane - Assistant Clerk/Administrator - Court of Appeal

Robert Durant - Assistant Executive Officer - East County Division

Tammy Nielsen - Lead Court Reporter - East County Division

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

October 6, 2006 (Continued)

In re the Matter of Ja' Nal Carter, CSR # 12813, Official Reporter, on Order to Show Cause why sanctions should not be imposed pursuant to rule 46.5 of the California Rules of Court for failure to prepare and file reporter's transcripts in the following cases:

People v. New, D048497

People v. Bartoleno, D047996

2:00 p.m. Attorney Jones represents to the Court that the reporter's transcripts are not completed yet, but that progress has been made. Attorney Jones makes a proposal to the Court on how the preparation of the transcripts can be expedited. Court reporter Carter's mother, Janet Carter, is a court reporter and runs a Court Reporting school. It is proposed that the mother, who can read Ms. Carter's notes, sit with Ms. Carter every evening and on weekends to help transcribe the portions not yet transcribed. It is the transcription of the reporter's notes that is the problem. Attorney Jones feels that the transcripts could be finished in 21 to 30 days.

2:02 p.m. The Court says that is unacceptable. Two cases are being held in abeyance and the public, litigants and others are being impacted by this. The Court asks what contact has Ms. Carter had with Superior Court and what percentage of work is left to be prepared.

2:03 p.m. Attorney Jones says that Ms. Carter has not had any contact with Superior Court. Attorney Jones says that there is less than 5% of the transcripts left to be completed. She says Ms. Carter has prepared more than 90% of the transcripts. Attorney Jones says that 3 volumes still need to be transcribed by hand, because her machine doesn't read the notes.

2:05 p.m. The Court wants to know, if 90% of the transcripts are completed where are these transcripts? Has Superior Court seen the transcripts? Is there a representative from Superior Court present?

2:07 p.m. Robert Durant - Assistant Executive Officer - East County Division and Tammy Nielsen - Lead Court Reporter - East County Division appear for Superior Court. Ms. Nielsen states that Superior Court has not seen the transcripts.

2:08 p.m. Attorney Jones says that the finished portion and the partially finished portion of the transcripts have been brought to Court.

2:09 p.m. The Court wants to know why at least one of the cases hasn't been finished. The Bartoleno case is only 1 day. Why can't it be finished? The Court wants Tammy Nielsen, Lead Court Reporter of Superior Court, to look at the transcripts and make a professional assessment of the situation. These questions are to be answered.

- 1) When will the records be completed?
- 2) Can her mother help legally, if the transcripts are to be certified?
- 3) How many days and pages of transcription still need to be prepared?

2:10 p.m. The Court takes a recess

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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DIVISION ONE  
October 6, 2006 (Continued)

2:40 p.m. Court reconvenes

2:40 p.m. The Court and attorney Jones further discuss having Ms. Carter's mother work with Ms. Carter to finish the transcripts. Attorney Jones says that the 21 to 30 days to finish the transcripts is an outside date, and that they would probably be finished sooner.

2:41 p.m. The Court asks Superior Court what kind of help Superior Court is able to offer Ms. Carter.

2:42 p.m. Ms. Nielsen says that Superior Court has been offering Ms. Carter assistance all along, but it has not been accepted. Ms. Nielsen says that Superior Court can supply a person to help read and transcribe the notes and to proof read the transcripts.

Ms. Nielsen says that on People v. New, there are 12 days of reporter's transcripts completed and 6 days not completed. She thinks that it will take about 2 days to transcribe every 1 day of uncompleted transcripts.

For People v. Bartoleno, the 1 day is jury voir dire and that takes longer to transcribe. Ms. Nielsen feels it should take 5 days to scope, proof read, print and bind this reporter's transcript.

2:45 p.m. The Court directs Ms. Nielsen and Superior Court to provide Ms. Carter with assistance in order to facilitate the completion of these two records. Ms. Nielsen is directed to provide this Court with a further estimate of time required to complete these records and to provide progress reports by telephone to Mr. Kevin Lane every Friday. In addition to the Friday updates, Ms. Nielsen is directed to notify this court immediately if a problem of any kind is encountered

CSR Ja' Nal Carter is ordered to work with Superior Court for 8 hours each day until the records are complete.

CSR Ja' Nal Carter is ordered to appear at the El Cajon Superior Court, 3rd floor Department 11 on Tuesday, October 10, 2006, at 8:30 a.m. and every morning thereafter until the transcripts are completed. CSR Ja' Nal Carter is ordered to bring her computer, discs, personal dictionary and any paperwork from the trial. Ms. Carter is admonished that failure to show up will have serious consequences.

The Order to Show Cause Hearing is CONTINUED to Wednesday October 25, 2006, at 9:00 a.m. That will allow Ms. Nielsen to report to Mr. Lane on both October 13, 2006, and October 20, 2006, regarding progress.

CSR Ja' Nal Carter is admonished to appear at this hearing or the Court will have her arrested. The Court asks Ms. Carter if she understands this.

Ms. Carter responds, yes.

2:50 p.m. Court is adjourned